By: Bohac H.B. No. 3220

A BILL TO BE ENTITLED

AN ACT

relating to disputes as to impairment ratings under the workers' compensation system.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 408.125, Labor Code, is amended by amending Subsections (d) and (f) and by adding Subsections (g), (h), and (i) to read as follows:

(d) To avoid undue influence on a person selected as a designated doctor under this section, only the injured employee or an appropriate member of the staff of the commission may communicate with the designated doctor about the case regarding the injured employee's medical condition or history before the examination of the injured employee by the designated doctor. After that examination is completed, communication with the designated doctor regarding the injured employee's medical condition or history may be made only through appropriate commission staff members. The designated doctor may initiate communication with any doctor who has previously treated or examined the injured employee for the work-related injury. A violation of this subsection is a Class C administrative violation.

(f) On the request of the insurance carrier or a claimant, the commission may request that a designated doctor clarify the doctor's opinion regarding maximum medical improvement or the impairment rating if there is evidence affecting the determination

of maximum medical improvement or establishment of the impairment rating that the doctor has not considered. A request for clarification under this subsection must be made not later than the first anniversary of the date on which the designated doctor issued the doctor's initial report. The designated doctor shall prepare a clarification report not later than the 10th day after the date of the commission's request for clarification. [~~A violation of Subsection (d) is a Class C administrative violation.~~]

(g) An insurance carrier may dispute the findings of a designated doctor regarding maximum medical improvement or an impairment rating if the dispute is filed with the commission not later than the 14th day after the date of receipt by the insurance carrier of the designated doctor's initial report under Subsection (b) or clarification report under Subsection (f).

(h) An insurance carrier that timely disputes the designated doctor's findings is not required to pay benefits based on those findings. If the dispute involves the impairment rating issued by the designated doctor, the insurance carrier shall make a reasonable assessment of the impairment rating, and shall pay benefits based on that assessment.

(i) An insurance carrier that does not timely dispute the designated doctor's findings is required to pay benefits in accordance with those findings not later than the 14th day after the date of receipt by the insurance carrier of the designated doctor's initial report under Subsection (b) or clarification report under Subsection (f).

SECTION 2. This Act takes effect September 1, 2003, and

applies only to a claim for workers' compensation benefits based on a compensable injury that occurs on or after that date. A claim based on a compensable injury that occurs before that date is governed by the law in effect on the date that the compensable injury occurred, and the former law is continued in effect for that purpose.